

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**HYBRID KINETIC AUTOMOTIVE
HOLDINGS, INC. and AMERICAN COMPASS, INC.**

PLAINTIFFS

VS.

CAUSE NO. 3:09CV00035-MPM-DAS

**HYBRID KINETIC AUTOMOTIVE CORP.,
CHARLES WANG, JACK DENG, GARY TANG, and
NICOLE DENTON**

DEFENDANTS

**HYBRID KINETIC AUTOMOTIVE
CORPORATION, ET AL.**

THIRD-PARTY PLAINTIFFS

VS.

**YUNG (BENJAMIN) YEUNG a/k/a
RONG YANG, ET AL.**

THIRD-PARTY PLAINTIFFS

ORDER

This matter is before the court on motion of Hybrid Kinetic Automotive Corp., Charles Wang, Jack Deng, Gary Tang, and Nichole Denton to compel the deposition of Yung (Benjamin) Yeung (# 57). Also before the court is a motion made during a telephonic status conference held June 22 to compel the depositions of Vincent Wang and Jimmy Wang. After considering the motions and the responses thereto, the court finds as follows:

As to Mr. Yeung, the movants argue his deposition should be held in Jackson, Mississippi. In support of their position, the movants contend Mr. Yeung is the CEO of both corporate plaintiffs, and as a normal rule plaintiffs are required to make themselves available for examination in the district in which suit was brought. 8A Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 2112 (2d ed. 1994); *see also Detweiler Bros., Inc. v.*

John Graham & Co., 412 F. Supp. 416, 422 (D.C. Wash. 1976). In response, the plaintiffs argue Mr. Yeung is not a party, and thus, his deposition should be taken in Los Angeles, California.

It is well established that the district court has wide discretion to establish the time and place of depositions. Fed. R. Civ. P. 26(c)(1)(B).¹ In the present case, both the caselaw and the Rules of Civil Procedure make it clear that Mr. Yeung's deposition should be taken in Jackson, Mississippi. Mr. Yeung is clearly an agent of the corporate plaintiffs, and the plaintiffs have certainly availed themselves of the Mississippi Federal Court system. Accordingly, the present motion shall be granted, and Yung (Benjamin) Yeung is hereby ordered to attend a two-day deposition to be held in Jackson, Mississippi on a date to which all parties agree. Should the parties be unable to agree on a date, the movant is directed to inform the court *only* that a date could not be found, and the court will set a date without consultation with the parties.

As for Jimmy Wang and Vincent Wang, it appears they are employed by Mr. Yeung, but it does not appear they are agents in the sense that Mr. Yeung is an agent of the corporate plaintiffs. While the court finds Mr. Yeung is so closely associated with the corporate entities, it ordered him to be treated as a party for purposes of the location of the deposition, the court does not find the same reasoning applies to Jimmy and Vincent Wang. As noted in *Detweiler*, a plaintiff's agents and employees may be ordered to the district in which the complaint was filed, but it is those agents and employees who are absent from the district at the direction of the plaintiff itself. *Detweiler*, 412 F. Supp. at 422. The court does not find that to be the case here.

¹The court is aware that Jackson, Mississippi is not within the Northern District of Mississippi. However, because the court orders that Mr. Yeung's deposition is to take place in Mississippi rather than California and because virtually all counsel are located in Jackson, Mississippi, it is far more efficient to order it taken there rather than a few miles north.

Also, both Jimmy and Vincent Wang are citizens of California, and both are defendants in this action. The general rule is much more protective of defendants than it is plaintiffs, and as such, the court will not order that Jimmy and Vincent Wang must travel to Mississippi to be deposed.

IT IS, THEREFORE, ORDERED that the defendant's motion to compel the deposition of Yung (Benjamin) Yeung (# 57) is hereby GRANTED. Yung (Benjamin) Yeung is hereby ordered to attend a two-day deposition to be held in Jackson, Mississippi on a date to which all parties agree.

IT IS FURTHER ORDERED that neither Jimmy Wang nor Vincent Wang must travel to Mississippi to be deposed.

SO ORDERED, this the 24th day of June 2009.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE